

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14899 of Marian B. Lane, as amended, pursuant to 11 DCMR 3107.2, for a variance from the lot occupancy requirements (Sub-section 403.2), and a variance from the provisions [Paragraphs 2001.3(a), (b) and (c) to allow an addition to a structure which does not conform to the percentage of lot occupancy and structure requirements, and an addition which increases and extends existing nonconforming aspects of the structure (lot occupancy) to construct a bay window addition to an existing nonconforming single-family structure in an R-3 District at premises 1668 34th Street, N.W., (Square 1291, Lot 221).

HEARING DATE: November 16, 1988

DECISION DATE: November 16, 1988 (Bench Decision)

FINDINGS OF FACT:

1. The application was amended at the public hearing to eliminate the proposed construction of a deck at the subject premises, thereby reducing the number and extent of area variances required. Specifically, the variance from the rear yard requirements of Section 404.1 is eliminated.

2. The property is located on the west side of 34th Street between Reservoir Road to the north and Dent Place to the south and is known as premises 1668 - 34th Street, N.W. It is zoned R-3.

3. The subject lot is generally rectangular with a frontage of 20.33 along 34th Street and a depth of 75 feet. The site contains 1,518.15 square feet of lot area.

4. The site is improved with a two story plus basement brick semi-detached single-family dwelling. The existing dwelling was constructed in approximately 1890 and is within the confines of the Georgetown Historic District.

5. The surrounding area is characterized by two and three-story row and semi-detached dwellings of brick or frame construction. The lot area of the other dwellings within the square vary greatly. The majority of dwellings in the square, as well as the subject site, have no alley access to the rear.

6. Directly west of the subject square is the campus of Georgetown University. A small corner store is located on Dent Street approximately one-half block from the site.

D.C. Fire Department Station No. 5 is located approximately 1½ blocks from the site.

7. The applicant is seeking variances from the lot occupancy requirements and the prohibition of an addition to a structure which does not conform to lot occupancy and area requirements, for an addition which increases the existing nonconformity of the site in order to construct a proposed bay window at the rear of the existing dwelling.

8. The R-3 District permits matter-of-right development of detached, semi-detached and row dwellings. The minimum area requirements for semi-detached dwellings in the R-3 zone is a minimum 3,000 square feet of lot area, 30 feet of lot width, a maximum of 40 percent lot occupancy, and 20 foot rear yard.

9. The premises are currently nonconforming with respect to the lot area, lot width, lot occupancy and side yard requirements. The proposed bay window measures eight feet six inches by three feet and will increase the existing nonconforming lot occupancy by 25.5 square feet. The proposed addition will not extend or create any additional nonconforming aspects of the property.

10. The proposed addition of the bay window will provide additional light and ventilation in the kitchen of the dwelling as well as permit additional space to accommodate a small kitchen table area for the elderly occupant of the dwelling. The applicant testified that the small size and location of the proposed addition would not adversely affect the light, air or privacy of adjoining and nearby properties.

11. The Office of Planning, (OP) by memorandum dated November 9, 1988, recommended approval of the application. The OP was of the opinion that the applicant is faced with a practical difficulty in the ability to reasonably add to the existing dwelling due to the severe lot constraints. The OP is further of the opinion that since the addition is at the rear of the dwelling and only amounts to 25.5 square feet, the addition will not negatively impact surrounding dwellings. The Board concurs with the recommendation of Office of Planning.

12. Advisory Neighborhood Commission 2E, by letter dated October 11, 1988, opposed the granting of the subject application. The written issues and concerns of the ANC relate to the applicant's original proposal to construct both the bay window and a deck. The ANC found that the existing dwelling already exceeded the permitted lot occupancy; that the property had no exceptional or extraordinary characteristics; that the requested relief was excessive; and that the applicant's desire to have more light in the

kitchen and outside floor level area irrelevant and is achievable by other means.

13. The record contains several letters in opposition to the application. As in the case of the ANC report, the opposition focuses on the construction of both the bay window and the deck.

14. In addressing the issues and concerns of the ANC and the opposition, the Board finds that the concerns raised seem to deal primarily with the original proposal to construct a deck and do not specifically address the revised request under consideration by the Board. The Board is unable to determine if the proffered objections are applicable to the instant case.

CONCLUSIONS OF LAW AND OPINION:

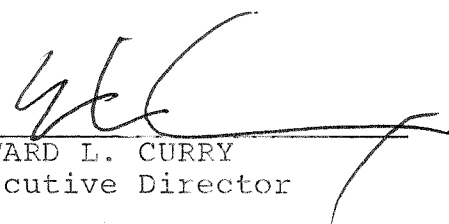
Based on the foregoing Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking area variances, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board concludes that the applicant has met the requisite burden of proof. The site is effected by an exceptional condition in that it was created and developed prior to the adoption of the Zoning Regulations, is unusually shallow, and cannot be enlarged due to the development of adjoining properties.

The Board further concludes that the proposed addition is minimal and that the proposed relief can be granted without substantial detriment to the public good and without substantially impairing the intent purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. Accordingly it is ORDERED that the application is GRANTED.

VOTE: 4-0 (William F. McIntosh, Paula L. Jewell and Charles R. Norris to grant; Carrie L. Thornhill to grant by proxy; Lloyd D. Smith not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

APR 28 98

FINAL DATE OF ORDER: _____

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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